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CITY CLERK'S OFFICE
SANTA BARBARA, CA

January 24, 2008

Mayor Marty Blum and Members of the City Council

City of Santa Barbara
City Hall
Santa Barbara, CA 93101

--By hand delivery.--

Re: 924 Jimeno Road--Appeal of ABR review and approvals.

Attention: Community Development Director, Planning Commission,
Architectural Board of Review, Single Family Design Board, Office of City
Attorney and City Administrator.

Dear Mayor Blum and Members of the City Council:

On behalf of Russ and Leslie Jones, neighboring property owners, I hereby file this appeal of any and all approvals given by ABR to any project at 924 Jimeno Road. The project does not appear to comply with Single Family Design Guidelines and its Hillside Design Guidelines. This appeal is based upon:

- (1) failure to give notice required by law to property owners entitled to notice;
- (2) violation of property rights;
- (3) action taken by staff and members of the ABR in excess of authority;
- (4) erroneous representations by the City (its staff and officers) regarding processing of this project in that the prior preliminary approval had expired and any project would require a new application and then be subject to the rules in effect;
- (5) improper "reinstatement" of an expired preliminary approval in violation of the regulations/ordinances of the City of Santa Barbara; and
- (6) the project as proposed violates the rules, regulations and guidelines adopted by the City to protect the property rights of adjacent and neighboring properties in that the project is excessively tall, bulky, inconsistent and not compatible with the neighborhood and violates important privacy rights and views of neighbors. In addition, any and all prior actions taken at a consent calendar item of the ABR without a tape or transcript or video of its consent calendar or administrative approvals violates the right of the public to be informed of the actions of its public officials and employees because there is no record of the information submitted or considered in order to allow for judicial review of the actions.

DISTRIBUTION DATE: 1-24-08
SFDB MEMBERS (7) TECH
SR. PLANNER ASST CITY ATTY.
APPLICANT'S AGENT(S)
ENTERED AS INT PARTY
ON DATE: 1-24-08 BY:

This project, if it continues to seek approval, should be required to apply to and be reviewed only by the Single Family Design Board.

It is requested that any and all persons involved preserve any and all records (including but not limited to emails of staff and the applicant) related to this site and that special care be taken to prevent destruction, loss, erasure, deletion, shredding, or any other method to cause the records to be not available in response to any future requests for records or evidence as part of any and all administrative, criminal or civil proceedings. Such action could constitute destruction of evidence or destruction of records in violation of the State of California public records protection laws and/or the laws of the City of Santa Barbara.

Based upon the records currently available, this site has an existing single family residence on a sloping lot in the hillside design district of the City. It appears that the applicant applied for ABR approval in 2005 under the rules and regulations then in effect. That application received a preliminary vote of approval, subject to numerous conditions because the project was not yet acceptable. That preliminary approval expired after one year (in April 2007) which is before the City Council approved and adopted the ordinances and regulations which established the Single Family Design Board and which created new regulations applicable to approval of single-family homes in the City. No timely application for any extension was submitted and the project expired. The project which was submitted for review in 2005 and 2006 by the ABR does not conform or comply with the new standards (not conceding that it complied with the prior regulations) and is not in keeping with the standards of the City and should not be allowed. The staff of the Department has a duty to uphold the standards of the City. The new guidelines provide the neighbors an important voice but this was denied.

Despite the policies, rules and regulations which require any project at this location to be reviewed by the SFDB (and should be denied because of its design); persons acting in excess of their authority and without any basis in fact for their action, caused a "reinstatement" (which is in effect a new approval) of the prior expired project, to be listed on the consent agenda of the ABR. Again, this was done without notice and without authority. That listing was not adequate to give proper notice of the true nature of the request. The consent agent of the ABR operates without notice and hearing procedures (no tape or other record of evidence received or considered is properly preserved) essential to due process and equal protection. In addition, its jurisdiction is limited to review of projects which are not subject to the jurisdiction of the Single Family Design Board (SFDB). A single family house project is subject to the SFDB and not ABR. The new guidelines provide the neighbors a important voice but this was denied.

As part of what appears to be a device to grant an improper benefit or favor to one property owner or its agent, it appears that notice was not provided to any persons within the neighborhood other than maybe the applicant. That improper and illegal action was then used as a basis to publish an agenda for an "in-progress" review of what was described as a project with a valid preliminary approval. Numerous persons objected to

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the design of the project and filed a petition in opposition. Staff wrongfully informed the concerned citizens and the members of the ABR that the matter properly before the ABR was in- progress review after preliminary approval. The vote of the six members present for the ABR meeting was 3-0-3. That vote suggests that ABR members were not comfortable with the project and process. One member did not attend or participate apparently because of a conflict of interest.

Based upon the lack of authority and other improprieties associated with this matter, the appellant requests not only that the project be rejected but also a refund of any appeal fees.

Please contact the undersigned to arrange an appropriate appeal hearing date.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Tony Fischer", with a long horizontal flourish extending to the right.

Tony Fischer, Attorney for Appellants
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